FEDERAL ELECTION COMMISSION
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ADVISORY OPINION 2006-24

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Dear Messrs. McGinley, Elias and Tabas:

We are responding to your joint advisory opinion request on behalf of the National Republican Senatorial Committee ("NRSC") and the Democratic Senatorial Campaign Committee ("DSCC") (on behalf of the committees themselves and the committees' respective Members who are currently Federal candidates), and the Republican State Committee of Pennsylvania ("State Party"). Your request concerns the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the establishment and administration of funds by Federal candidates' principal campaign committees and the State Party to pay recount and election contest expenses resulting from the upcoming Federal elections on November 7, 2006 ("recount funds"), and the role that the NRSC and DSCC may play in the administration of such recount funds.

The Commission concludes that because election recount activities are in connection with a Federal election, any recount fund established by either a Federal candidate or the State Party must comply with the amount limitations, source prohibitions, and reporting requirements of the Act. In addition, the Commission concludes that the NRSC and DSCC, and their agents, may participate in planning and strategy discussions with a Federal candidate or the State Party regarding the use of their respective recount funds.

Background

The facts presented in this advisory opinion are based on your letter received on August 7, 2006.

NRSC and DSCC Involvement with Recount Funds

The NRSC and DSCC are political committees comprised of sitting Members of the United States Senate of their respective political party and include all incumbent Senators who are currently Federal candidates. The primary function of these political committees is "to aid the election of candidates affiliated with their respective parties," including providing political and financial support and guidance to Federal candidates. The NRSC and DSCC intend to advise their Members in close elections to establish and administer recount funds to be used to finance any recount, election contest or related post-election litigation costs. The NRSC and DSCC also intend to conduct strategy and planning sessions with Federal candidates and State party committees regarding the establishment and administration of recount funds. These sessions will include discussion of how recount funds should be raised and spent, as well as "recount and election contest strategies and tactics."

Federal Candidate Recount Funds

Federal candidates who become involved in recounts intend to establish and administer recount funds through their authorized committees. The Federal candidates will retain all authority over the raising and spending of funds in the recount fund, but will consult with national and State party committee officials regarding fundraising, administrative issues, and strategies and tactics. The Federal candidates and their authorized committees will not solicit or receive any funds from corporations, labor organizations, national banks, or foreign nationals for the recount funds. Money raised by the recount funds will not be used to pay for pre-election or Election Day expenses, such as administrative costs, get-out-the-vote activities or communication expenses. Instead, the recount funds will be used only to pay for "expenses resulting from a recount, election contest, counting of provisional and absentee ballots and ballots cast in polling places," as well as "post-election litigation and administrative-proceeding expenses concerning the casting and counting of ballots during the Federal election, fees for the payment of staff assisting the recount or election contest efforts, and

administrative and overhead expenses in connection with recounts and election contests" ("recount activities").

The State Party Recount Fund

The State Party is the Republican State party for the Commonwealth of Pennsylvania, and is registered with the Commission as a political party committee. The State Party intends to establish a recount fund to support its Federal candidates by financing recount, election contest and related post-election litigation costs. The State Party will establish and administer the recount fund and will retain all authority over the raising and spending of the recount fund. The State Party intends to consult with any Federal candidate who is, or may be, involved in a recount or election contest prior to, on, and after Election Day. The State Party will also consult with national party committee officials regarding fundraising, administration, and recount and election contest strategies and tactics. The State Party will not solicit or receive any funds from corporations, labor organizations, national banks, or foreign nationals for the recount fund. Prior to or on Election Day, no money raised by the recount fund will be used to pay for Federal election activity, as defined in 2 U.S.C. 431(20) and 11 CFR 100.24, coordinated or independent expenditures, exempt party activities, or any communications referring to any Federal candidate. All recount funds will be used solely to pay for recount activities, as described above.

The Pennsylvania Election Code does not limit the amount that may be contributed with respect to State elections. It does, however, prohibit contributions by national and State banks, corporations and unincorporated associations. 25 Pa. Stat. Ann. §3253(a). State party committees are required to file reports of receipts, including specific contributor information, and expenditures with the Secretary of the Commonwealth. 25 Pa. Stat. Ann. §3246.

Questions Presented

1. *Are recount activities conducted by a Federal candidate's recount fund in connection with an election for Federal office so that 2 U.S.C. 441i(e)(1)(A) applies to the recount fund?*

    a. *What amount limits apply to donations from individuals and political committees to a Federal candidate's recount fund?*

    b. *How should a Federal candidate's recount fund report its activities?*

    c. *What are the restrictions, if any, on Federal officeholders or candidates and State party officials raising funds for the Federal candidate's recount fund?*

2. *Are the State Party's recount activities involving Federal races "in connection with an election for Federal office" so that only Federal funds may be used to pay for these recount activities?*

a. *What amount limits apply to donations from individuals and political committees to the State Party's recount fund?*

b. *How should the State Party's recount fund report its activities?*

c. *What are the restrictions, if any, on Federal officeholders or candidates raising funds for the State Party's recount fund?*

d. *May the State Party involve a Federal candidate in its decision-making regarding its recount activities and "fully coordinate" recount activities with the Federal candidate?*

e. *May the State Party's recount fund pay attorney's fees and other litigation costs incurred by a Federal candidate who is a party in a recount or election contest?*

f. *Are the State law contribution limitations and reporting obligations preempted by the Act and Commission regulations with regard to the State Party's recount fund?*

3. *May the NRSC and DSCC, and their agents, participate in planning and strategy sessions regarding the establishment, administration, fundraising strategies and recount activities of a recount fund established by a Federal candidate or the State Party?*

4. *May a Federal candidate or the State Party retain excess funds in the recount funds for future elections, or must the funds be disposed of in some manner?*

Legal Analysis and Conclusions

Question 1: Are recount activities conducted by a Federal candidate's recount fund in connection with an election for Federal office so that 2 U.S.C. 441i(e)(1)(A) applies to the recount fund?

Yes, any recount fund established by a Federal officeholder or candidate is subject to 2 U.S.C. 441i(e)(1)(A), and therefore any funds solicited, received, directed, transferred, or spent are subject to the amount limitations, source prohibitions and reporting requirements of the Act. This statutory provision applies regardless of whether the recount fund is established as a separate bank account of a candidate's authorized committee or a separate entity.

The Act and Commission regulations define the terms "contribution" and "expenditure" to include any gift, loan, or payment of money or anything of value for the purpose of influencing a Federal election. *See* 2 U.S.C. 431(8)(A)(i) and (9)(A)(i);

11 CFR 100.52(a) and 100.111(a). Commission regulations promulgated before the enactment of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 (2002) ("BCRA"), make exceptions from the cited definitions for gifts, loans, or payments made with respect to a recount of the results of a Federal election. 11 CFR 100.91 and 100.151.[1] Nonetheless, in recognition of the Act's prohibitions on corporations, labor organizations, national banks, and foreign nationals making contributions or donations "in connection with" Federal elections, *see* 2 U.S.C. 441b(a) and 441e(a)(1)(A), these recount regulations expressly bar the receipt or use of funds prohibited by 11 CFR 110.20 (foreign nationals) and Part 114 (corporations, labor organizations, and national banks). 11 CFR 100.91 and 100.151.

In two advisory opinions, the Commission has addressed the application of pre-BCRA law to election recounts. First, in Advisory Opinion 1978-92 (Miller), the Commission concluded that any funds received by a separate organizational entity established by the candidate's authorized committee solely for the purposes of funding an election recount effort would not be subject to the contribution limitations of 2 U.S.C. 441a, and would not trigger political committee status or reporting obligations for the separate election recount entity. The Commission also concluded that the separate recount entity could not accept funds from corporations, labor organizations, and national banks, which were included in 11 CFR 100.4(b)(15).[2] The Commission noted that involvement of current officers and staff of the authorized committee as organizers and principals in a separate election recount entity would not change these conclusions.

In Advisory Opinion 1998-26 (Landrieu), the Commission considered a candidate's principal campaign committee that established, as a wholly separate entity, a contested election trust fund. The Commission concluded that the trust fund was not subject to reporting requirements and could accept amounts in excess of the contribution limitations in 2 U.S.C. 441a, but could not accept funds from prohibited sources, as specified in the predecessors to the recount regulations, 11 CFR 100.7(b)(20) and 100.8(b)(20).

BCRA took effect after these advisory opinions were issued. Under BCRA, Federal candidates and officeholders may not solicit, receive, direct, transfer, or spend funds "in connection with an election for Federal office" unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act ("Federal funds"). *See* 2 U.S.C. 441i(e)(1)(A); *see also* 11 CFR 300.2(g). These restrictions apply to Federal officeholders and candidates, their agents, and entities directly and indirectly

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[1] These recount regulations recognize that the Act's definition of "election" does not specifically include recounts. *See* 2 U.S.C. 431(1); *see also* 11 CFR 100.2. In 2002, these regulations were recodified without substantive change from 11 CFR 100.7(b)(20) and 100.8(b)(20), effective November 6, 2002. *See* 67 Fed. Reg. 50582 (Aug. 5, 2002). Prior to 1980, similar provisions appeared at 11 CFR 100.4(b)(15) and 100.7(b)(17). *See* 45 Fed. Reg. 15080 (Mar. 7, 1980).

[2] Advisory Opinion 1978-92 (Miller) cited the then-current recount regulations found at 100.4(b)(15) and 100.7(b)(17). In the 1980 recodification of 11 CFR 100.4(b)(15) and 100.7(b)(17) as 11 CFR 100.7(b)(20) and 100.8(b)(20), respectively, the prohibition on funds from foreign nationals was added to the regulation. *See* 45 Fed. Reg. 15080, 15102 (Mar. 7, 1980).

established, financed, maintained, or controlled by, or acting on behalf of, any such candidates or officeholders. *Id.; see also* 11 CFR 300.60 and 300.61. Congress's choice of the "in connection with" standard in 2 U.S.C. 441i(e)(1)(A) requires the Commission to conclude that section 441i(e)(1)(A) applies to funds raised or spent on recounts of Federal elections. This conclusion flows from the plain language of BCRA, as well as the Commission's recount regulations dating to 1977 that are premised on the conclusion that recounts are "in connection with" Federal elections. *See* 2 U.S.C. 441b(a), 441e(a)(1)(A); 11 CFR 100.91 and 100.151.

Therefore, 2 U.S.C. 441i(e)(1)(A) prohibits Federal officeholders and candidates, their agents, and entities directly or indirectly established, financed, maintained or controlled by or acting on behalf of one or more Federal officeholders or candidates, from soliciting, receiving, directing, transferring, or spending funds for expenses related to a recount of the votes cast in a Federal election, including the recount activities described above, unless those funds are subject to the limitations, prohibitions, and reporting requirements of the Act. Because Federal candidates would directly or indirectly establish, finance, maintain, and control the recount funds under your proposal, 2 U.S.C. 441i(e)(1)(A) applies to the Federal candidates' recount funds.

To the extent that Advisory Opinions 1978-92 and 1998-26 differ from this result, they are superseded.

(a) What amount limits apply to donations from individuals and political committees to a Federal candidate's recount fund?

As discussed above, a Federal candidate's recount fund must not receive or solicit donations in excess of the Act's amount limitations. 2 U.S.C. 441i(e)(1)(A). Thus, by operation of 2 U.S.C. 441i(e), any recount fund established by a Federal candidate may not receive donations that in the aggregate exceed $2,100 per person or $5,000 per multi-candidate political committee.

However, because section 441i(e)(1)(A) does not convert the donations into "contributions" for purposes of 2 U.S.C. 441a, donations to a Federal candidate's recount fund will not be aggregated with contributions from those persons to the Federal candidate for the general election. For these purposes, a recount is similar to a runoff election, which is also subject to a contribution limit separate from the general election contribution limit. Similarly, the aggregate biennial contribution limits of 2 U.S.C. 441a(a)(3) do not apply to an individual's donations to recount funds. Federal candidates may advise prospective donors that donations to recount funds will not be aggregated with contributions from individuals for purposes of the contribution limits for the general election set forth in 2 U.S.C. 441a(a)(1)(A) or (2)(A) or the aggregate biennial contribution limits set forth in 2 U.S.C. 441a(a)(3).

(b) How should a Federal candidate's recount fund report its activities?

A Federal candidate may establish a recount fund either as a separate bank account of the candidate's authorized committee, or as a separate entity. The required reporting does not vary, but the authority for the reporting requirements depends on the organizational option. If the recount fund is a separate account of the Federal candidate's authorized committee, then its receipts and disbursements must be reported on the authorized committee's reports as "other receipts" and "other disbursements." *See* 11 CFR 104.3(a)(3)(x)(A) and (b)(2)(vi)(A). If the recount fund is a separate entity established by the Federal candidate, then the separate entity must report as an authorized committee under 11 CFR 100.5(d) in order to comply with the reporting obligations under 2 U.S.C. 441i(e)(1)(A). Under 11 CFR 104.3(f), the principal campaign committee must consolidate in its report any other authorized committee's reports. Therefore, if the recount fund is a separate entity, the Federal candidate's principal campaign committee must still report the recount fund's receipts and disbursements as "other receipts" and "other disbursements."

(c) What are the restrictions, if any, on Federal officeholders or candidates and State party officials raising funds for the Federal candidate's recount fund?

As a general matter, Federal officeholders and candidates may solicit only funds that are subject to the limitations, prohibitions, and reporting requirements of the Act in connection with a Federal election. *See* 2 U.S.C. 441i(e). Because any recount fund established by a Federal candidate will comply with the limitations, prohibitions and reporting requirements of the Act, as explained in response to Question 1, Federal officeholders and candidates may solicit funds for the recount fund consistent with this restriction in 2 U.S.C. 441i(e). You specifically ask whether Federal officeholders and candidates may appear as featured guests at fundraising events, participate in pre-event publicity, sign fundraising letters and make telephone solicitations for the recount fund. Such activity would be permissible as long as it is consistent with the restriction in 2 U.S.C. 441i(e). State party officials may also participate in fundraising for a Federal candidate's recount fund so long as that fund complies with the amount limitations, source prohibitions and reporting requirements of the Act.[3]

Question 2: Are the State Party's recount activities involving Federal races "in connection with an election for Federal office" so that only Federal funds may be used to pay for these recount activities?[4]

Yes, payments for recount activities involving Federal races are disbursements in connection with a Federal election. Under 11 CFR 102.5(a)(1)(i) and 300.30(b)(3)(iii), the State Party must use funds in a Federal account to pay for these recount activities.

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[3] As explained in response to Question 2(d), consultation and coordination between Federal candidates and State party officials does not result in the making of coordinated party expenditures under the Act.

[4] You do not ask, and this advisory opinion does not address recounts and election contests relating solely to State or local candidate races.

As explained in response to Question 1, although recount funds are not considered "contributions" or "expenditures" under Commission regulations, those funds received or spent for recount activities are spent on activities "in connection with" a Federal election. Pursuant to 11 CFR 102.5(a)(1)(i) and 300.30(b)(3)(iii), all disbursements in connection with a Federal election made by a State party that has both Federal and non-Federal accounts must be made from a Federal account.[5] In addition, only Federal funds may be deposited in a Federal account. *See* 11 CFR 102.5(a)(1)(i) and 300.2(g). Therefore, a recount fund established by the State Party to conduct recount activities in support of the party's Federal candidates must be a Federal account containing only Federal funds.[6]

(a) What amount limits apply to donations from individuals and political committees to the State Party's recount fund?

Under 11 CFR 300.30(b)(3)(iii), the State Party's recount fund for recounts of Federal races must comply with the amount limitations in the Act, and therefore may not receive more than $10,000 from a person or $5000 from a multicandidate political committee per calendar year. *See* 2 U.S.C. 441a(a)(1)(D) and 441a(a)(2)(C). As explained in response to Question 1(a), requiring that this State Party recount fund receive only Federal funds does not convert the donations into "contributions" for purposes of 2 U.S.C. 441a. Consequently, donations to the State Party's recount fund will not be aggregated with contributions from those same donors to the State Party for the calendar year. Similarly, the aggregate biennial contribution limits of 2 U.S.C. 441a(a)(3) do not apply to individuals' donations to recount funds. The State Party may advise prospective donors that donations to the State Party's recount fund will not be aggregated with contributions from the same persons to the State Party in that calendar year, or for the purposes of the aggregate biennial contribution limits of 2 U.S.C. 441a(a)(3).

(b) How should the State Party's recount fund report its activities?

The State Party must establish a separate Federal account to pay for all Federal recount activity. The State Party must report all of the recount fund's receipts and disbursements to the Commission in accordance with 2 U.S.C. 434 and 11 CFR 104.3 because the recount fund is a Federal account of a State party committee.[7]

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[5] The only exceptions pertain to disbursements from special allocation accounts. However, recount activities exclusively for Federal elections are not allocable activities.

[6] This opinion does not apply to recounts and election contests relating solely to State or local candidate races.

[7] Your request also asks whether, if the State Party is not permitted to establish a recount fund, the State Party may use its non-Federal account to pay for recount activities. While the State Party may use a non-Federal account to pay for non-Federal recount activities consistent with State law, the State Party may only establish a recount fund for Federal races that is a separate Federal account.

(c) What are the restrictions, if any, on Federal officeholders or candidates raising funds for the State Party's recount fund?

Federal officeholders and candidates may solicit only Federal funds for the recount fund consistent with 2 U.S.C. 441i(e). As explained above in response to Question 1(c), Federal officeholders and candidates may appear as featured guests at fundraising events, participate in pre-event publicity, sign fundraising letters and make telephone solicitations for Federal funds for the State Party's recount fund.

(d) May the State Party involve a Federal candidate in its decision-making regarding its recount activities and "fully coordinate" recount activities with the Federal candidate?

Yes, the State Party may involve a Federal candidate and the candidate's agents in the decisions concerning the State Party's recount fund before, on, and after Election Day. The limitations on coordinated spending by the State Party for a particular candidate are not applicable to a State Party's recount fund. These limitations, found at 2 U.S.C. 441a(d)(3), are applicable only "in connection with the general election campaign of a candidate for Federal office." Recount funds are subject to the limitations, prohibitions, and reporting requirements of the Act, but they are not in connection with the general election *campaign* of the Federal candidate because the campaign has ended and because such funds are not otherwise permitted to be used for campaign activity. Therefore, the State Party's use of Federal funds to support the recount effort are not subject to the coordinated spending limitations.

The State Party would not be required to aggregate amounts spent on coordinated recount activities with any coordinated expenditures for the general election made on behalf of that candidate.

(e) May the State Party's recount fund pay attorney's fees and other litigation costs incurred by a Federal candidate who is a party in a recount or election contest?

Yes, the State Party's recount fund may pay attorney's fees and other litigation costs of a Federal candidate involved in a recount or election contest. The State Party payment for a Federal candidate's legal expenses in connection with a recount would be permissible when made with recount funds subject to the limitations, prohibitions, and reporting requirements of the Act. As explained in response to Question 2(d), the amount limitation in 2 U.S.C. 441a(d)(3) would not apply to coordinated recount activity. The State Party should report such payments as disbursements of the Federal recount fund account as explained in response to Question 2(b).[8]

[8] Your request also asks if the State Party may use a non-Federal account to pay a Federal candidate's legal expenses associated with a recount. As explained in response to Question 2, the State Party may only establish a recount fund for Federal races that is a Federal account of the State Party. The State Party may not finance any recount activities, including payment of attorney's fees for Federal candidates, from a non-Federal account.

(f) Are the State law contribution limitations and reporting obligations preempted by the Act and Commission regulations with regard to the State Party's recount fund?

Yes, the Act states that its provisions and the rules prescribed under the Act "supersede and preempt any provision of State law with respect to election to Federal office." 2 U.S.C. 453(a); 11 CFR 108.7(a). The House of Representatives Administration Committee explained this provision's meaning in sweeping terms, stating that it is intended "to make certain that the Federal law is construed to occupy the field with respect to elections to Federal office and that the Federal law will be the sole authority under which such elections will be regulated." H.R. Rep. No. 93-1239, 93d Cong., 2d Sess. 10 (1974).

When the Commission promulgated regulations at 11 CFR 108.7 on the effect of the Act on State law, it stated that the regulations follow section 453 and that, specifically, Federal law supersedes State law with respect to the organization and registration of political committees supporting Federal candidates, disclosure of receipts and expenditures by Federal candidates and political committees, and the limitations on contributions and expenditures regarding Federal candidates and political committees. *See* Explanation and Justification for 1977 Amendments to Federal Election Campaign Act of 1971, H.R. Doc. No. 95-44, 95th Cong., 1st Sess. 51 (1977); 11 CFR 108.7(b). As the legislative history of 2 U.S.C. 453 shows, "the central aim of the clause is to provide a comprehensive, uniform Federal scheme that is the sole source of regulation of campaign financing . . . for election to Federal office." Advisory Opinions 2000-23 (New York State Democratic Committee); 1999-12 (Campaign for Working Families); 1988-21 (Wieder).

Section 108.7(b)(3) of the Commission's regulations specifically preempts State laws concerning limitations on contributions made and received by and expenditures made by Federal candidates and political committees. *See also* Advisory Opinion 2000-23 (New York State Democratic Committee);. Although receipts and disbursements of the State Party's recount fund are not "contributions" or "expenditures" under the Act, these receipts and disbursements are in connection with a Federal election, and not in connection with any non-Federal election. Thus, such recount funds are subject to the amount limitations and source prohibitions in the Act, preempting the Pennsylvania Election Code, 25 Pa. Stat. Ann. §§ 2600 *et. seq*. Moreover, because the State Party's recount fund must be a separate Federal account that is not used for non-Federal election spending, the reporting requirements of the Act and Commission regulations preempt the reporting requirements of the Pennsylvania Election Code.

Question 3: May the NRSC and DSCC, and their agents, participate in planning and strategy sessions regarding the establishment, administration, fundraising strategies and recount activities of a recount fund established by a Federal candidate or the State Party?

Yes, the NRSC and DSCC, and their agents, may participate in strategy sessions regarding the raising and spending of these funds on recount activities without violating the Act or Commission regulations, provided that the State Party does not use non-Federal funds to pay expenses related to their participation. As the Supreme Court stated in *McConnell v. FEC*, 540 U.S. 93, 161 (2003), BCRA "leaves national party committee officers entirely free to participate, in their official capacities, with state and local parties and candidates in soliciting and spending hard money."

National party committees, including NRSC and DSCC, may not solicit, receive, direct or spend "any funds [] that are not subject to the limitations, prohibitions, and reporting requirements of th[e] Act." 2 U.S.C. 441i(a)(1); 11 CFR 300.10(a). As the Explanation and Justification for 11 CFR 100.10 makes clear, this prohibition applies regardless of whether such funds are "in connection with" a Federal election or for any other purpose. *See* Explanation and Justification for Final Rule on Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49089 (July 29, 2002) ("[T]he plain language of BCRA, supported by the legislative history, indicates that the ban on national party raising and spending non-Federal funds was intended to be broad, prohibiting a party from raising, receiving, or directing to another person 'a contribution, donation, or transfer of funds, or *any other thing of value*' or spending '*any funds*' that are not subject to the Act's limitations, prohibitions, and reporting requirements." (emphasis in original)). Thus, the NRSC and DSCC must pay for all of the recount activities they conduct using entirely Federal funds.

Question 4: May a Federal candidate or the State Party retain excess funds in the recount funds for future elections, or must the funds be disposed of in some manner?

You inquire very broadly as to all possible uses of leftover recount funds including, but not limited to, whether such funds must be disposed of or whether they may be kept in a separate account for future elections of the same candidate or be transferred to other political committees. The Commission concludes that this question is speculative, and a definitive answer depends upon various contingencies that may or may not occur. This question is, therefore, hypothetical.[9] Commission regulations explain that requests posing a hypothetical situation, presenting a general question of interpretation, or regarding the activities of third parties, do not qualify as advisory opinion requests. 11 CFR 112.1(b). On this basis, the Commission expresses no opinion regarding this question. If a Federal candidate or State Party in fact has excess funds in a recount fund after the election, the candidate or party may wish to resubmit this question for Commission consideration with specific proposed plans for the excess funds.

[9] Your request also asks what recordkeeping and reporting requirements would apply to excess recount funds retained for future elections. This question is also hypothetical.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity.

Sincerely,

(signed)

Robert D. Lenhard
Vice Chairman

Enclosures (Advisory Opinions 2000-23, 1999-12, 1998-26, 1988-21 and 1978-92)